

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**TERRY C. JOHNSON,**

**Plaintiff,**

**vs.**

**JOSE A. DELGADO, *et al.*,**

**Defendants.**

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**CIVIL NO. 09-cv-420-MJR**

**MEMORANDUM AND ORDER**

**REAGAN, District Judge:**

This matter is before the Court on Plaintiff's motion to voluntarily dismiss his complaint. *See* (Doc. 30).

On June 11, 2010, the Court revoked Plaintiff's *pauper* status because he was prohibited from proceed *in forma pauperis* under the provisions of 28 U.S.C. § 1915(g). Accordingly, Plaintiff was directed to pay the remaining balance of the filing fee (in this case \$335.48) within fifteen days.

The Order stated, however, that if Plaintiff failed to pay the remainder of the filing fee (\$335.48) within the time specified, then this case would be dismissed, but, the dismissal would be without prejudice. *Harris v. City of New York*, \_\_ F.3d at \_\_, 2010 WL 2179151 \*5 (2<sup>nd</sup> Cir. June 2, 2010).

Thus, Plaintiff had two options if he wished to pursue his claims. The first option was to pay the remaining balance of the filing fee for this case (\$335.48) and continue with it uninterrupted. The second option was to not pay the remaining balance of the filing fee for this case, suffer a dismissal of it (without prejudice), and then refile his complaint as a new civil

action seeking leave to proceed *in forma pauperis*. The Court warned Plaintiff, however, that if he pursued the second option and this case was dismissed, he might face additional barriers to refiling his claims. For example, the future case may be barred by the applicable statute of limitations.

In the instant motion, Plaintiff informs the Court that he is unable to pay the remainder of the filing fee. Therefore, because the Court will dismiss his complaint anyway, he wishes to voluntarily dismiss it.

**DISPOSITION**

**IT IS HEREBY ORDERED** that, pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure, Plaintiff's motion to dismiss (Doc. 30) is **GRANTED** and this case is **DISMISSED** without prejudice. All pending motions are **DENIED** as moot..

**IT IS SO ORDERED.**

**DATED this 6th day of July, 2010.**

**s/ Michael J. Reagan**  
**MICHAEL J. REAGAN**  
**United States District Judge**